

**IN THE UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
Richmond Division**

**In re: Wanda Elois Daniel
Debtor**

**Case No. 12-33766-DOT
Chapter 13**

Debtor's Address: 105 East Leigh Street
Richmond, VA 23220

Last Four Digits of Debtor's SSN: XXX-XX-3558

NOTICE OF OBJECTION TO CLAIM

The above named Debtor has filed an objection to your claim in this bankruptcy case.

Your claim may be reduced, modified or eliminated. You should read these papers carefully and discuss them with your attorney, if you have one.

If you do not want the court to eliminate or change your claim, then on or before June 24, 2013, you or your attorney must:

1. File with the court, at the address below, a written response to the objection and a request for a hearing. Unless a written response is filed and served by the date specified, the court may decide that you do not oppose the objection to your claim. If you mail your response to the court for filing, you must mail it early enough so that the court will **receive** it on or before the date stated above.

Clerk of Court
United States Bankruptcy Court
701 East Broad Street, Room 4000
Richmond, VA 23219-3515

Mark C. Leffler (VSB # 40712)
Emily Connor Fort (VSB # 83889)
Boleman Law Firm, P.C.
P.O. Box 11588
Richmond, VA 23230-1588
Counsel for Debtor

2. You must also mail a copy to:

Boleman Law Firm, P.C.
P.O. Box 11588
Richmond, VA 23230-1588

If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in the objection and may enter an order granting that relief.

Dated: May 23, 2013

Respectfully submitted,
Wanda Elois Daniel

By: /s/ Emily Connor Fort
Emily Connor Fort (VSB # 83889)
Mark C. Leffler (VSB # 40712)
Boleman Law Firm, P.C.
P.O. Box 11588
Richmond, VA 23230-1588
Counsel for Debtor

CERTIFICATE OF SERVICE

I certify that, on May 23, 2013, I have transmitted a true copy of the foregoing document electronically through the Court's CM/ECF system or by mail to Debtor and the Chapter 13 Trustee, and to the Respondent at the following addresses:

Neighborhood Housing Services of Richmond, Inc.
c/o Alexander Hamilton Ayers, Esquire
710 North Hamilton Street
Suite 300
Richmond, VA 23221

Neighborhood Housing Services of Richmond, Inc.
c/o Christie Smith, Executive Director
2712 Chamberlayne Avenue
Richmond, VA 23222

/s/ Emily Connor Fort
Counsel for Debtor

**IN THE UNITED STATES BANKRUPTCY COURT
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OBJECTION TO CLAIM AND MEMORANDUM IN SUPPORT THEREOF

*****NOTICE OF TIME FOR FILING RESPONSE*****

NOTICE IS HEREBY GIVEN that pursuant to Local Bankruptcy Rule Number 9013-1(H)(3)(d) of the Eastern District of Virginia, the Court may enter an order without a hearing if no response is filed to this objection within 30 days.

COMES NOW, Wanda Elois Daniel ("Ms. Daniel"), by counsel, and files this Objection to the Proof of Claim (Claim No. 4-2) filed by Neighborhood Housing Services of Richmond, Inc., pursuant to 11 U.S.C. § 502, Federal Rules of Bankruptcy Procedure 3001, 3007 and 9014, and Local Bankruptcy Rules 3007-1 and 9013-1. In support thereof, Ms. Daniel respectfully states the following:

Jurisdiction

1. Jurisdiction of this Court over the instant matter is based upon 28 U.S.C. §§1334 and 157 in that this action arises in and relates to Ms. Daniel's bankruptcy case, a chapter 13 filed in this Court on June 21, 2012 (the "Petition Date").
2. This proceeding is a core proceeding under 28 U.S.C. §157(b)(2)(A), (B), (K), and (O).
3. Venue is proper pursuant to 28 U.S.C. §1409.

Mark C. Leffler (VSB # 40712)
Emily Connor Fort (VSB # 83889)
Boleman Law Firm, P.C.
P.O. Box 11588
Richmond, VA 23230-1588
Counsel for Ms. Daniel

Parties

4. Ms. Daniel is the sole owner of the real property commonly known as 105 East Leigh Street, Richmond VA 23230 (“the Real Property”).

5. Neighborhood Housing Services of Richmond, Inc. (the “Respondent”), is, upon information and belief, a Virginia corporation.

Facts

6. The following allegations of fact are made upon information and belief and such allegation should precede each allegation of fact as alleged and such terms are hereinafter inserted and incorporated by this reference.

7. On April 30, 2001, Ms. Daniel executed a document entitled “Deed of Trust Note” (“the Note”), a copy of which is attached hereto and incorporated by reference as Exhibit “A”.

8. The Note purports to be a promise by Ms. Daniel to pay One Hundred Nineteen Thousand Five Hundred Dollars (\$119,500.00) plus interest to the Respondent.

9. On April 30, 2001, Ms. Daniel executed a Deed of Trust (“the Deed of Trust”) in favor of George William Sadler, Jr., Trustee, to secure payment of the Deed of Trust Note. A copy of the Deed of Trust is attached hereto and incorporated by reference as Exhibit “B”.

10. On June 27, 2001, the Deed of Trust was recorded in the Circuit Court Land Records of the City of Richmond, Virginia, and was assigned Instrument Number 810016442. Upon information and belief, the Deed of Trust is in first lien position on the Real Property.

11. On or about January 29, 2013, Respondent filed an amended proof of claim in this case (the "Proof of Claim"), by and through its Executive Director Christie Smith. The Court designated the Proof of Claim as Claim Number 4-2 in the Claims Register.

12. Respondent alleges that the amount of the claim on the Petition Date was \$95,559.86 (the "Principal Balance"), and that the amount of the arrearage and other charges was \$14,942.09 (the "Pre-Petition Arrearage").

13. Upon information and belief, the Principal Balance and the Pre-Petition Arrearage fail to credit all payments made by Ms. Daniel to Respondent.

14. Upon information and belief, Respondent has failed to timely pay obligations such as real estate taxes and insurance premiums from the escrow account.

15. Prior to the Petition Date, Ms. Daniel made numerous requests for an accounting from Respondent with respect to the escrow account. Respondent provided Ms. Daniel with at least three conflicting statements purporting to show the escrow account history.

Discussion

16. Pursuant to 11 U.S.C. § 502(a), a claim is "deemed allowed, unless a party in interest . . . objects."

17. Pursuant to 11 U.S.C. § 502(b)(1), where an objection is made to claim, the Court "shall determine the amount of such claim . . . and shall allow such claim in such amount, except to the extent that . . . [] such claim is unenforceable against the debtor and property of the debtor, under any agreement or applicable law"

18. Pursuant to Federal Rule of Bankruptcy Procedure 3001(c)(1), if a claim is based upon a writing, "the original or a duplicate shall be filed with the proof of claim."

19. Pursuant to Federal Rule of Bankruptcy Procedure 3001(c)(2), if a claim “includes interest, fees, expenses, or other charged incurred before the petition was filed, an itemized statement of the interest, fees, expenses, or charges shall be filed with the proof of claim.”

Argument

20. Ms. Daniel disputes the accuracy of the Principal Balance and Pre-Petition Arrearage amounts.

21. Ms. Daniel alleges that the amounts set forth in the Proof of Claim are not fully explained or documented. Accordingly, Ms. Daniel requests strict proof thereof.

22. Additionally, the Proof of Claim includes attorney’s fees and other costs that are unsubstantiated. Ms. Daniel denies liability as to those charges and requests strict proof thereof.

WHEREFORE, Ms. Daniel respectfully requests that the Court sustain this Objection to Claim, determine the amount of such claim, allow such claim in such amount, and order such other and further relief as is just and proper.

Respectfully submitted,

Wanda Elois Daniel

By: /s/ Emily Connor Fort
Mark C. Leffler (VSB # 40712)
Emily Connor Fort (VSB # 83889)
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P.O. Box 11588
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Counsel for Ms. Daniel

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